

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND,
P 18-0323)	DECISION AND
Fruit Orchard Holdings, Inc.)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on January 10, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is an application for a Conditional Use Permit to allow the construction and operation of an agriculturally-related industrial use.
2. The Applicant is Chris Hoppe, Fruit Orchard Holdings, Inc., 20374 Seneca Meadows Parkway, Germantown, MD 20876.
3. The agent is Mark Rice, Hanson-Rice Construction, 1717 E. Chisholm Drive, Nampa, ID 83687.
4. The project site location is 14126 Road F S.W., Royal City, WA 99357. The site is located in a portion of Section 13, Township 16N, Range 25E, W.M. Grant County, WA. Parcel number 31-3470-000.
5. The zoning for the property is Rural Remote.
6. The zoning for neighboring parcels is: To the north, Agriculture and Urban Residential 2; to the south, Rural Remote; to the east, Urban Light Industrial; to the west, Rural Remote.
7. The Comprehensive Plan designation for the subject property is Rural Remote.
8. A Mitigated Determination of Non-Significance (MDNS) was issued on November 20, 2018. Mitigation measures identified in the MDNS relate to stormwater management, traffic impacts, and a public water system connection. The associated comment period for the MDNS expired on December 7, 2018. The required appeal period for the MDNS expired on December 21, 2018, no appeals were filed.
9. The subject parcel was reviewed for Critical Areas and found to contain wetlands, priority habitat areas, and a critical aquifer recharge area associated with the Port of Royal Slope water system.
10. A wetland delineation dated October 4, 2018 prepared by Grette Associates was submitted for this project. There were two jurisdictional wetlands identified on the site. Wetland A is a Category III wetland and requires a 150-foot buffer. Wetland B is a category IV wetland and requires a 50-foot buffer. The design of the project on the subject property avoids both of these wetlands and their associated buffers.

11. The priority habitat area on the site is associated with shrub steppe habitat, riparian soils, and talus cliffs. The Washington State Department of Fish and Wildlife was consulted on this matter during the pre-application phase of this project, and they indicated that the proposed development area on this parcel is situated such that it avoids the priority habitat areas and that no special site assessment was required.
12. The critical aquifer recharge area on this parcel is associated with a wellhead that serves the Port of Royal Slope water system immediately east of the project site. The applicant submitted a Hydrogeologic Report as required in GCC 24.08.420 dated November 19, 2018, prepared by Aspect Consulting. The report notes that there are two identified aquifers in the project vicinity and that portions of the project are located within the 5 and 10-year travel time of travel zones for the Port of Royal Slope wellhead. The report concludes that the susceptibility of the aquifers to surface contamination are low to moderate and do not require unique mitigation measures, beyond compliance with the Washington State Department of Ecology Stormwater Manual for Eastern Washington.
13. The Notice of Application for this project was published in the Columbia Basin Herald on October 17, 2018. Additionally, it was mailed to property owners within 300 feet of the subject property, and was posted on the subject property. Information on this project was also mailed to applicable agencies of jurisdiction for their review and comment. A second public notice (and notice of revised hearing date) was published in the Columbia Basin Herald, posted on the site, and mailed to property owners within 300-feet of the project site on November 26, 2018.
14. The following agencies and County departments provided comments:
 - 14.1 Grant County Fire Marshal responded on October 29, 2018
 - 14.2 Grant County Public Works Department responded on October 22, 2018
 - 14.3 Washington State Dept. of Health (Drinking Water Division) responded on October 23, 2018
 - 14.4 Port of Royal Slope responded on October 26, 2018
 - 14.5 Washington State Department of Ecology responded on October 21, 2018
15. The following agencies were notified but did not respond:
 - 15.1 Grant County Building Official
 - 15.2 Grant County Treasurer's Office
 - 15.3 Grant County Health District
 - 15.4 Grant County Assessor's Office
 - 15.5 Grant County Sheriff's Office
 - 15.6 Washington State Dept. of Fish and Wildlife
 - 15.7 Grant County Auditor's Office
 - 15.8 Grant County Emergency Management
 - 15.9 Grant County Noxious Weed Control Board
 - 15.10 Grant County PUD
 - 15.11 U.S. Bureau of Reclamation
 - 15.12 Grant County Fire District #10
 - 15.13 Quincy Columbia Basin Irrigation District
 - 15.14 Washington State Department of Transportation
16. **Agency Comments:** Agency comments generated by this proposal did not reveal issues that existing adopted codes or the proposed conditions do not already address.
17. No public comments were received.

18. The application was deemed to be Technically Complete on October 8, 2018.
19. This proposal was processed as a Type III Quasi-Judicial Decision, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
20. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code, see previous discussion.
21. The proposal is not located within an Urban Growth Area of any city. The site is however adjacent to the Urban Growth Area associated with the Town of Royal City.
22. The project site is located in the Rural Remote Zoning District.
23. Pursuant to Grant County Code 23.04, Table 4, "Agriculturally-related industry" is allowed as a Conditional Use in the Agricultural Zoning District.
24. Pursuant to GCC 25.02 "Agriculturally-Related Industry" is defined to include: those industrial uses directly related to the packaging, processing, storage, or physical or chemical alteration of an agricultural product. Such uses include, but are not limited to, commercial cold storage plants, and/or controlled atmosphere facilities, produce packing and processing facilities, wineries and their accessory uses such as tasting and sales rooms.
25. The project is anticipated to be developed in a series of phases between 2019 and 2026. At total build out, the project would include approximately 830,000 square feet of cold/controlled atmosphere storage, and approximately 200,000 square feet of ancillary uses (office, administrative, storage). However, the Grant County Unified Development Code (GCUDC) 25.08.07 requires development to be completed within five years, with a possible 1 year extension. If development is not completed within this time frame then this Conditional Use Permit is null and void.
26. Site visits were conducted on or about November 20, 2018 and December 19, 2018 by Development Services Staff.
27. Information about this application was sent to all applicable agencies of jurisdiction for their review and comments. Agency comments and/or requirements specific/applicable to this proposal have been included as Conditions of Approval. All comments received were included in the Staff Report and were made available to the applicant. No adverse comments were expressed by any agency that would prohibit development.
28. Grant County Development Services Staff reviewed and considered the application materials and the comments received for the proposal. Based on the design of the proposed project, and after consideration of the criteria of approval, and the proposed conditions of approval, staff recommended approval of subject Conditional Use Permit.
29. The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.

29.1 Applicant's Response to this Criteria:

"The proposed use is classified as an "Agriculturally-Related Industrial Use" (GCUDC Chapter 23.03 – Table 4 and 25.02.030). In the rural remote zone (RRem), this is an allowed use pending a Conditional Use Permit (CUP). The project will be designed/built within the applicable development requirements (heights, setbacks, etc.). The proposed project is consistent with industrial/Food related uses on neighboring

properties and the Royal Slope Port District immediately to the east. The project will create many new jobs for the town of Royal City and the surrounding communities.”

- 29.2 As indicated by the applicant, the use is allowed in the existing zoning district and therefore will not be contrary to the intent or purpose of the Grant County code or the Comprehensive Plan.
30. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
- 30.1 Applicant’s response to this criteria:
- “As previously mentioned, the proposed use falls within allowable uses through a CUP process. The project character will be consistent with industrial/food related uses in the immediate neighborhood and will utilize concrete tilt up construction and enhanced with some architectural features (colored concrete, accents, lighting, signage and landscaping) along the street scape. This facility will become the flagship for their product and their image will be matched accordingly.”
- 30.2 The proposed development, as designed is consistent with rural-scale and intensity relative to agriculturally-related industrial uses. These facilities are often characterized by large structures with industrial appearances. Surrounding and nearby development characteristics are dominated by similar facilities and uses. The proposal has been designed to be compliant with the existing development standards which are supportive of the land use designation that exists for this site. The proposal is therefore appropriate in design, character, and appearance with the goals and policies associated with the Rural Remote designation.
31. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
- 31.1 Applicant’s response to this criteria:
- “The surrounding areas consist of either vacant native lands or industrial/Port type uses consistent with the proposed use. Wetland areas to the south have been delineated as part of this proposal and will not be a factor as they will be located on a separate parcel to the south more than 300” away from proposed uses. The proposed project is consistent with the agricultural community that makes up a large part of the Royal City and surrounding areas.”
- 31.2 A Mitigated Determination of Non-Significance (MDNS) was issued for this proposal to address any potential adverse environmental impacts. The required mitigation measures in the MDNS and any proposed conditions of approval herein seek to ensure that the proposal will not cause significant adverse impacts on the human or natural environment.
32. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
- 32.1 Applicant’s response to this criteria:
- “The full building anticipated is included in this CUP proposal. Although future growth is hard to predict, any further requests would be consistent with the proposed uses and would expand further to the south of the proposed master plan. As mentioned earlier, the proposed project is consistent with the surrounding agricultural community.

- The project will also utilize state of the art food safety practices and environmentally friendly products. The nature of the products to be processed also reduce the processing aid requirements resulting in a cleaner process that has less impact on the environment.”
- 32.2 Each similar project is reviewed under the same limitations and regulations, and each site is reviewed with respect to critical areas compliance and SEPA compliance. Provided all similar projects are designed, conditioned, and establish appropriate mitigation, the cumulative impact of all similar developments should not result in significant adverse impacts.
33. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
- 33.1 Applicant’s response to this criteria:
- 33.2 “Water and power utilities are available from both the Port of Royal Slope and Grant County PUD. Storm, process, and sewer disposal needs will be handled with on-site systems – see attached civil plans.”
- 33.3 The subject property is served by adequate facilities. As the applicant has noted, electrical services will be provided by the Grant County PUD. Domestic (potable), process and fire protection water requirements will be provided by the Port of Royal Slope. The site is located in a fire protection district. Sewage and process water treatment will occur in on-site facilities that are to be constructed to serve the proposed development.
34. The location, size, and height of buildings, structures, walls and fences and screening vegetation for the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties.
- 34.1 Applicant’s response to this criteria:
- 34.2 "The building will be designed/constructed within the allowable development standards set forth by the governing codes. Landscaping will also be consistent with the requirements and will include screening on the northern property line adjacent to residential and a streetscape along Road F. Parking areas will also include landscaping. (See attached preliminary Landscape plan). Non-intrusive fencing will be used for compliance with food safety standards.
- 34.3 As designed, the project will not interfere with the allowable development or use of neighboring properties. The project utilizes design aspects that are common and customary to agricultural industrial uses and are consistent with surrounding development of similar types. The project does not require any variances that would compromise the development of surrounding properties.
35. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
- 35.1 Applicant’s response to this criteria:
- 35.2 “Part of the CUP requirements is to include a Traffic Impact Study (see attached). Development of the site and its access needs would be consistent with the recommendations and requirements imposed during the design and review process.”

- 35.3 A Traffic Impact Analysis, dated September 30, 2018 prepared by Transportation Engineering Northwest (TENW) considered the transportation system impacts that are likely to be generated by the development. The report identified a required system improvement that will be required upon full build out of the proposed development or if a second work shift is implemented at the facility. The identified improvement consists of establishing a new right turn lane on east-bound Highway 26 at the Road F SW intersection. A condition to this effect has been added for the Hearing Examiner's consideration.
36. Land uses, activities, and structures that are allowable as conditional uses must also comply with any required performance standards in GCC § 23.08.
- 36.1 Applicant's response to this criteria:
- 36.2 "Applicable standards for site development of Industrial uses will be followed. As the process uses are food grade in nature, the facility will be clean and contained and should not have adverse emissions, noise, etc. Parking, screening, landscaping, etc. will be consistent with the applicable standards. No unrelated accessory uses as defined by this section are planned for this project."
- 36.3 As designed, the project complies with the applicable performance standards, although it should be noted there are no specific performance standards for agriculturally-related uses.
37. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70).
- 37.1 Applicant's response to this criteria:
- 37.2 "The small private airfield to the west is a mile + away and should not be a factor to this project. There are other buildings of similar nature between this project and the airfield that have not had issues in the past. Building and site lighting would be shielded as to not create an impact to night flight operations."
- 37.3 Development Services agrees with the applicant's response. Given the separation of this site from the private airfield to the east, the proposal should not generate any compatibility issues for the continued use of the private airfield.
38. The proposal conforms to the standards specified in GCC § 23.12.
- 38.1 Applicant's response to this criteria:
- 38.2 "The project would be consistent with the applicable standards for lot coverage, setbacks, building height, landscaping, parking, signage, lighting, etc."
- 38.3 The proposal, as designed complies with the applicable development standards.
40. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
41. An open record public hearing after due legal notice was held on January 9, 2019.
39. The entire Planning Staff file was admitted into the record at the public hearing.
42. Appearing and testifying at the hearing on behalf of the applicant was Mark Rice. Mr. Rice testified that he concurred with all representations stated within the staff report and that the applicant had no objection to any of the proposed conditions of approval.

43. There was public testimony in favor of this project. Frank Miannecki, Jr. testified that he is a Port District Commissioner but was testifying first as a public citizen. He testified that this business will have a huge economic effect on the area and supports the project as a member of the public. As a Commissioner, he stated that because this project was located outside of the applicable urban growth area, that the Port District would be unable to provide certain assistance to the applicant but nevertheless was strongly in favor of this project.
44. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P 18-0323 is hereby APPROVED subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The applicant shall comply with all requirements of the Grant County Planning Division as follows:
 - 1.1 Development of the site shall substantially follow the Concept 11D Conceptual Site Plan prepared by Bethlehem Construction, dated Oct 10, 2018 and September 28, 2018.

- 1.2 All development of the site shall substantially comply with the Overall Landscape Plans (L1.1 and L1.2) dated September 30, 2018 prepared by Eco Plan and Design.
 - 1.3 Pursuant to GCC 23.12 footnote 18, only those buildings used for the storage of materials for agricultural activities may exceed the 35-foot height limitation in the zone. Any other buildings that exceed the height limitation of the zoning designation shall require a variance.
 - 1.4 Development shall comply with all requirements and management recommendations listed in the Geotechnical Siting and Planning-Level support document dated September 5, 2018, prepared by Aspect Consulting. This report contains general geotechnical considerations for the site, but also requires supplemental field work and materials testing to ensure proper geotechnical design.
 - 1.5 Development shall comply with all requirements and recommendations of Hydrogeological Report dated November 19, 2018 prepared by Aspect Consulting.
 - 1.6 Development shall comply with the project mitigation requirements found in the Traffic Impact Analysis dated September 30, 2018 prepared by TENW. Installation of a new/improved eastbound right-turn lane on Highway 26 at the intersection with Road F SW shall be required prior to issuance of any building or development permits for Phase 2 of the project.
 - 1.7 Development shall comply with all requirements found in the Wetland Delineation Report dated October 4, 2018, prepared by Grette Associates.
 - 1.8 Development shall comply with all requirements of the Washington State Department of Ecology Stormwater Manual for Eastern Washington.
 - 1.9 Development shall comply with all requirements of Mitigated Determination of Non-Significance issued by Grant County on November 20, 2018.
2. The applicant shall comply with all requirements of the Grant County Fire Marshal as follows:
 - 2.1 Development shall connect to Port of Royal water system for fire flow requirements. Any expansions of the service system must maintain a 12-inch minimum line size.
 - 2.2 Except for Controlled Atmosphere buildings, all other proposed buildings are required to contain a fire sprinkler system, permits are required for the sprinkler systems.
 - 2.3 Hydrant spacing throughout the site shall be submitted to the Fire Marshal for review and consideration.
 3. The applicant shall comply with all requirements of the Grant County Public Works Department as follows:
 - 3.1 Development requires an approved approach permit, issued by Public Works prior to issuance of any building or development permits.
 - 3.2 Development requires a Work in Right-of-Way permit prior to any work being completed in the Grant County road ROW.
 4. Development shall comply with the requirements of the Washington State Department of Ecology as follows:
 - 4.1 Operator shall apply for the "Fresh Fruit Packing General Permit" 180-days prior to discharging and wastewater.

Dated this 15th day of January, 2019.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.